

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: PROCESSED EGG PRODUCTS	:	
ANTITRUST LITIGATION	:	
	:	MDL No. 2002
	:	08-md-02002
	:	
	:	
THIS DOCUMENT RELATES TO	:	
<u>ALL DIRECT ACTION PLAINTIFF ACTIONS</u>	:	

**DEFENDANT SPARBOE FARMS, INC.’S
MOTION TO DISMISS WINN-DIXIE STORES, INC., H.J. HEINZ COMPANY, L.P.,
ROUNDY’S SUPERMARKETS, INC., C&S WHOLESALE GROCERS, INC.’S
COMPLAINT**

Plaintiffs Winn-Dixie Stores, Inc. H.J. Heinz Company L.P., Roundy’s Supermarkets, Inc., and C&S Wholesale Grocers, Inc. commenced an action against Defendant Sparboe Farms, Inc. (“Sparboe”), which is captioned *Winn-Dixie Stores, Inc., et al. v. Michael Foods, Inc., et al.*, Case. No. 11-cv-0510. This action was consolidated before this Court and the complaint was filed on this Court’s docket at Doc. No. 622.

Sparboe hereby respectfully moves the Court for an Order dismissing all claims asserted against it in Winn-Dixie Stores, Inc. H.J. Heinz Company L.P., Roundy’s Supermarkets, Inc., and C&S Wholesale Grocers, Inc.’s complaint with prejudice and without leave to amend. This motion is made pursuant to Fed. R. Civ. P. 12(b)(6) on the grounds that the complaint fails to state a claim upon which relief can be granted against Sparboe. This motion is supported by all files, records, and proceedings herein, including Sparboe’s Memorandum of Law In Support of Its Motion To Dismiss Each of The Direct Action Plaintiffs’ Complaints, the Declaration of Troy

J. Hutchinson, all other documents referenced in or embraced by the complaint, publically-available documents, and arguments of counsel.

Sparboe respectfully requests oral argument on this motion.

Dated: March 26, 2012

RESPECTFULLY SUBMITTED,

By: s/Troy J. Hutchinson
Troy J. Hutchinson (Minn. #0320420)
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INC.***